

EXHIBIT 5



Mar 23 2009
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: Methyl Tertiary Butyl Ether ("MtBE")
Products Liability Litigation

MDL No. 1358
Master File C.A. No.
1:00-1898 (SAS)

This document relates to the following cases:

City of New York v. Amerada Hess Corp., et al.
04 Civ. 3417

EXPERT REBUTTAL REPORT OF David B. Terry, P.G.

LEGGETTE, BRASHEARS & GRAHAM, INC.
6 Arrow Road
Ramsey, NJ 07446

Signature

March 23, 2009

Date

8.2 Additional Analysis 1 Run with Lower Dispersivity Value

In order to evaluate the effects that a lower value for longitudinal dispersivity value would have on the numerical modeling simulation, we performed an additional simulation identical to that summarized in my report, but with the longitudinal dispersivity value for Layer 1 reduced from 350 feet to 70 feet. This value was selected to evaluate the comment of Dr. Driscoll that *"a more reasonable value for dispersivity in this glacial outwash environment is in the range of 20 to 70 feet"* (bottom of Page 52). A dispersivity value of 20 feet was considered too low to be representative for this model.

A comparison of the original Analysis 1 simulation and the 70 ft Dispersion simulation is presented in Figure 6. The MTBE concentrations at Station 6 are very similar under both dispersivity assumptions. The peak MTBE concentration at Station 6 remains at about 35 ppb in the lower dispersivity simulation, although this peak concentration is reached about 2 years later than for the original simulation. Overall, I draw the same conclusions from the 70 ft dispersivity value simulation that I drew from the original Analysis 1 simulation provided in my report. The results of this simulation indicate that a five-fold reduction in model dispersivity does not substantially alter the results of Analysis 1 and a similar result would be expected if the dispersivity was altered for Analysis 2.

8.3 Revised Analysis 2 Run

We performed a revised run of Analysis 2 to include additional spill sites including some sites identified by defendant experts but not included in the simulation summarized in my report into the Layer 1 input concentration matrix. The following three modifications to the Analysis 2 simulation were made in the Station 6 capture zone area:

1	Added additional spill locations based on review of toxics targeting database.
2	Recalculated initial concentrations for Analysis 2 to avoid "slug" concern.
3	Edited the background input concentrations to eliminate several non-validated data points.

In my original Analysis 2 simulation, I limited my review primarily to sites with sufficient information in Site Remediation files demonstrating that a significant gasoline discharge had occurred. However, I indicated that additional MTBE discharge sites were known to be present within the capture zone. To perform the revised Analysis 2, I extended my review to include all sites in the estimated future Station 6 capture zone within the Toxics Targeting database with evidence demonstrating that a significant gasoline discharge had occurred. This resulted in the identification of 19 additional sites